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Transcript Exhibit(s)

Docket #(s): W-02483A-09-0064

Exhibit # : SI

AZ CORP COMMISSION
DOCKET CONTROL

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Arizona Corporation Commission

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SEP 23 2009

DOCKETED BY	<i>[Signature]</i>
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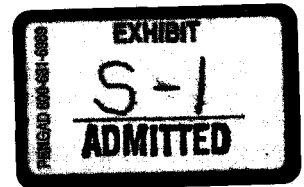
ORIGINAL

S-

MEMORANDUM

TO: Docket Control

FROM: Steven M. Olea
Director
Utilities Division



Date: September 4, 2009

RE: **AMENDED STAFF REPORT FOR THE APPLICATION OF TONTO HILLS
UTILITY COMPANY FOR APPROVAL OF SALE OF ASSETS AND
CANCELLATION OF THE CERTIFICATE OF CONVENIENCE AND
NECESSITY**
(DOCKET NOS: W-20653A-09-0064 AND W-02418A-09-0064)

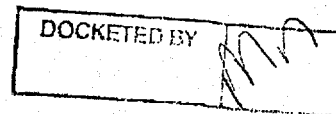
Attached is the amended Staff Report for the transfer of Tonto Hills Utility Company ("Company") to the Tonto Hills Domestic Water Improvement District and cancellation of the Company certificate of convenience and necessity. The original Staff Report filed on August 7, 2009, included an incorrect Map (Exhibit 1). Staff recommends approval with conditions.

SMO:VW:tdp

Originator: Vicki Wallace

Arizona Corporation Commission
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Service List For: Tonto Hills Utility Company
Docket Nos. W-20653A-09-0064, et al

Mr. Steven Polgar
38245 North Jacqueline Drive
Cave Creek, Arizona 85331

Mr. Harry Howe
10505 North 69th Street
Scottsdale, Arizona 85253

Mr. Charles Civer
42265 North Old Mine Road
Cave Creek, Arizona a85331

Mr. Charles Dunning
Tonto Hills Utility Company
11802 East Blue Wash Road
Cave Creek, Arizona 85331

Ms. Janice Alward
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Steven M. Olea
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

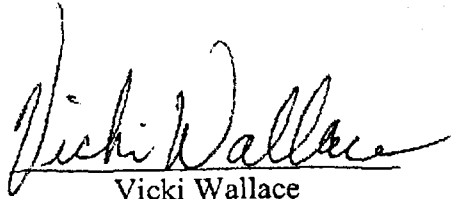
TONTO HILLS UTILITY COMPANY
DOCKET NOS.W-20653A-09-0064 AND W-02483A-09-0064

SALE OF ASSETS OF TONTO HILLS UTILITY COMPANY TO TONTO
HILLS DOMESTIC WATER IMPROVEMENT DISTRICT AND CANCELLATION OF
TONTO HILLS UTILITY COMPANY'S CERTIFICATE OF CONVENIENCE AND
NECESSITY

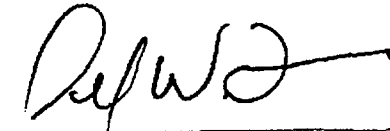
SEPTEMBER 4, 2009

STAFF ACKNOWLEDGMENT

The Staff Report for Tonto Hills Utility Company, Docket Nos. W-20653A-09-0064 and W-02483A-09-0064 was prepared by the staff members listed below.

A handwritten signature in cursive script, appearing to read "Vicki Wallace", written over a horizontal line.

Vicki Wallace
Executive Consultant

A handwritten signature in cursive script, appearing to read "Del Smith", written over a horizontal line.

Del Smith
Engineering Supervisor

**EXECUTIVE SUMMARY
TONGO HILLS UTILITY COMPANY
DOCKET NOS. W-20653A-09-0064, et al**

On February 17, 2009, the Tonto Hills Utility Company ("Tonto Hills" or "Company") filed an application with the Arizona Corporation Commission ("Commission" or "ACC") to cancel its Certificate of Convenience and Necessity ("CC&N") and to approve of the sale of its assets to Tonto Hills Domestic Water Improvement District ("THDWID" or "District").

Tonto Hills entered into an agreement referred to as a Letter of Intent ("LOI") which is attached as Exhibit 2 with THDWID on May 9, 2008, to sell and transfer its assets to the THDWID. The residents and customers within the Company's service area petitioned Maricopa County to form the District on October 30, 2008, and an Order Establishing the District was issued by the Maricopa County Board of Supervisors on January 28, 2009.

The LOI is an offer by the District to acquire all tangible and intangible assets, contractual, ownership, and leasehold rights and interests held by Tonto Hills. The LOI sets forth the terms of the sale and transfer and the conditions for closing. There are no obligations of Tonto Hills associated with main extension agreements, and refundable water meter deposits will be assumed by the District. The LOI indicates the parties intent to document the acquisition with a comprehensive contract and bill of sale to be negotiated consistent with the LOI.

The District has and/or will retain the necessary experience to operate a water company, and the proposed transfer will not have an adverse effect on service quality or operations of the Company.

The Company is in compliance with requirements of the Maricopa County Environmental Services Department, the Arizona Department of Water Resources, and the Arizona Corporation Commission.

Staff recommends approval of the sale and transfer of the assets of Tonto Hills to the THDWID and that the Commission cancel the CC&N of Tonto Hills with the following conditions:

1. The finalized contract and bill of sale be filed as a compliance item in this docket.
2. The District be required to honor all obligations of Tonto Hills associated with refundable customer deposits without any arbitrary timeframe for submission of claims.

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INTRODUCTION

On February 17, 2009, the Tonto Hills Utility Company ("Tonto Hills" or "Company") filed an application with the Arizona Corporation Commission ("Commission" or "ACC") to cancel its Certificate of Convenience and Necessity ("CC&N") and for approval of the sale of its assets to Tonto Hills Domestic Water Improvement District ("THDWID" or "District"). Tonto Hills indicated that THDWID was formed by the property owners of the Tonto Hills community to acquire the assets of Tonto Hills, take over the day-to-day management of the Company, and provide water utility service to all Company customers.

On March 19, 2009, the ACC Utilities Division ("Staff") filed an Insufficiency Letter indicating that the Company's application did not meet the sufficiency requirements of the Arizona Administrative Code ("A.A.C."). A copy of the Insufficiency Letter was sent to the Company via U. S. certified mail. In that letter, Staff listed the deficiencies to be cured for administrative purposes. On April 8, 2008, the Company sent a response to the first Insufficiency Letter.

On May 12, 2009, a second Insufficiency Letter was filed requesting further information, and the Company responded on May 18, 2009. On June 18, 2009, Staff filed a Sufficiency Letter indicating that the application had met the sufficiency requirements of the A.A.C.

On July 22, 2009, Staff also filed a request to Docket Control for partial administrative closure of the docket number (W-20653A-09-0064) that was assigned to THDWID since the District is not a regulated entity.

BACKGROUND

Tonto Hills is an "S" corporation that was granted a CC&N to provide water service to the public in Decision No. 55491 issued March 19, 1997. Per the Company's Annual Report filed for the year ending December 31, 2008, the Company provided water utility service to 127 customers during the peak summer season of May, June, July, and August in 2008. The Company serves the Community of Tonto Hills which is located in the vicinity of Cave Creek Road and Old Mine Road approximately six miles east of the Town of Cave Creek in Maricopa County. The Company's CC&N covers an area consisting of 465 acres or roughly three-quarters of a square mile. Staff's legal description and map of the service area is attached as Exhibit 1.

Tonto Hills entered into an agreement referred to as a Letter of Intent ("LOI") which is attached as Exhibit 2 with THDWID on May 9, 2008, to sell and transfer its assets to the THDWID. The residents and customers within the Company's service area petitioned Maricopa County to form the District on October 30, 2008, and an Order Establishing the District (Exhibit 3) was issued by the Maricopa County Board of Supervisors on January 28, 2009.

The LOI is an offer by the District to acquire all tangible and intangible assets, contractual, ownership, and leasehold rights and interests held by Tonto Hills. The LOI sets forth the terms of the sale and transfer and the conditions for closing. The offer of THDWID is contingent upon each of the conditions being completed no later than December 31, 2009. Staff requested the Company to provide the current status of the conditions listed in the LOI and was advised of each condition's progress in the Company's response of April 8, 2009 (Exhibit 4, number 14). There are no obligations of Tonto Hills associated with main extension agreements, and refundable water meter deposits will be assumed by the District.

The LOI indicates the parties intent to document the acquisition with a comprehensive contract and bill of sale to be negotiated consistent with the LOI. Staff recommends that the finalized contract and bill of sale should be filed as a compliance item in this docket.

COMPANY WATER SYSTEM

Central Arizona Project ("CAP") water is the Company's sole source of water. The CAP water is treated and transported to the Company's water system by the City of Scottsdale ("City"). The Company's water system consists of a 64,000-gallon storage tank, a gravity fed distribution system, meters and service lines. The average annual growth rate for the previous five-year period has been very modest, with an average of about two new connections added per year. The maximum number of customers served peaked at 130 in 2005 and 2006. Staff concludes that this system has adequate production and storage capacity. See Staff's Engineering Report (Exhibit 5) for more details.

THE PROPOSED TRANSFER AND DISTRICT ORGANIZATION/OPERATION

According to the Applicant, the existing officers of the Company wish to retire for reasons of age, and it would be in the best interest of the community to own and operate its water system to ensure proper operation and maintenance of the system at the lowest possible rates. The proposed sale will enable the District to benefit from opportunities to receive grants, subsidized loans, tax benefits, and lower costs for professional services, and such benefits have been recognized in similar proceedings before the Commission.

The District will be governed by an elected board of directors as authorized under Arizona Statutes. The Board consists of five members ultimately elected by District property owners. The initial membership, as approved by the County Board of Supervisors, is listed in number 5 of Exhibit 4. All of the District Board members have professional or business management experience. Two members have water company experience. The officers of Tonto Hills remain residents and property owners of the Tonto Hills Community and will provide advisory assistance to the District Board of Directors if needed. An employee and stockholder of the Company, who has been responsible for day-to-day operations of the water system, has been hired by the District as Superintendent of Operations.

Staff's Engineering Report indicates that system improvement projects will need to be undertaken in the future. Recent water pumped and water sold data indicates an excessive amount of non-account water (exceeding 12 percent) which is typically due to system leaks caused by old infrastructure that is in need of repair or replacement. The District filed a Project Financial Assistance application with the Water Infrastructure Finance Authority of Arizona ("WIFA"). In its WIFA application, the District indicated that the funding, in part, was needed for storage tank repairs and to correct water loss issues.

Staff understands that the proposed transfer will not have an adverse effect on service quality or operation of the Company. The District has submitted requests for proposals to qualified certified operators. The selected management company will be employed prior to the District's taking over operation of the water system. Finally, according to the Applicant, the complexity of operating the water system is lessened because the Company uses only CAP water, which is treated and transported by the City. The Applicant believes that the transfer to the District will help to ensure continued control of the Company's CAP water allocation.

RATES AND CUSTOMER SERVICE

In response to Staff's data request regarding the District's expectations of rate increases, it was indicated that there were no plans or prospects of changes of rates in the foreseeable future.

The Utilities Division Consumer Services' Database indicates that over the last three years, there have been zero complaints filed against Tonto Hills. There were also no opinions filed in opposition to the sale to the District.

CUSTOMER NOTICE

On March 6, 2009, Tonto Hills filed with Docket Control the notice mailed to each current customer and a copy of the public notice printed in the Sonoran News on March 18, 2009, both of which are attached as Exhibit 6. The Procedural Order issued July 16, 2009, required an additional notice to customers of the hearing in this matter.

The initial notice of the Company as referenced above advised customers that any claims against Tonto Hills needed to be made within twenty days of the date of publication of the notice. Staff believes that the LOI provides that the District will be responsible for all Tonto Hills liabilities with respect to refundable customer deposits. Staff recommends that as a condition of approval of the sale and cancellation of Tonto Hill's CC&N that the District be required to honor all such liabilities of Tonto Hills associated with refundable customer deposits without any arbitrary timeframe for submission of claims.

MARICOPA COUNTY ENVIRONMENTAL SERVICES DEPARTMENT ("MCESD") COMPLIANCE

MCESD regulates the water system under Arizona Department of Environmental Quality Public Water System Identification No. 07-076. The MCESD has determined that this system is in substantial compliance with its requirements and is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

ARIZONA DEPARTMENT OF WATER RESOURCES ("ADWR") COMPLIANCE

Tonto Hills Utility Company is within ADWR's Phoenix Active Management Area, and consequently is subject to reporting and conservation rules. ADWR reported that the Company is currently in compliance with departmental requirements governing water providers and/or community water systems.

ACC COMPLIANCE

A check with the Utilities Division Compliance Section showed no delinquent compliance items.

CONCLUSIONS AND RECOMMENDATIONS


1. The water system has adequate production and storage capacity.
2. The District has or will retain the necessary experience to operate a water company
3. The District has shown its intention to assume the Company's obligations regarding refundable water meter deposits, and there are no obligations associated with main line extensions.
4. The proposed transfer will not have an adverse effect on service quality or operation of the Company
5. The MCESD has determined that this system is in substantial compliance with its requirements and is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.
6. ADWR reported that the Company is currently in compliance with department requirements governing water providers and/or community water systems.
7. The Company is in compliance with ACC requirements.


Staff recommends approval of the sale and transfer of assets of Tonto Hills and that the Commission cancel the CC&N of Tonto Hills with the following conditions:

1. The finalized contract and bill of sale be filed as a compliance item in this docket.
2. The District be required to honor all obligations of Tonto Hills associated with refundable customer deposits without any arbitrary timeframe for submission of claims.

MEMORANDUM

TO: Vicki Wallace
Chief, Consumer Services & Special Projects
Utilities Division

FROM: Barb Wells 
Information Technology Specialist
Utilities Division

THRU: Del Smith 
Engineering Supervisor
Utilities Division

DATE: August 31, 2009

RE: **TONTO HILLS UTILITY COMPANY (DOCKET NO. W-02483A-09-0064)**
TONTO HILLS DOMESTIC WATER IMPROVEMENT DISTRICT

Tonto Hills has filed an application to cancel its CC&N and sell its assets to Tonto Hills Domestic Water Improvement District.

Attached is a copy of the map for your files.

:bsw

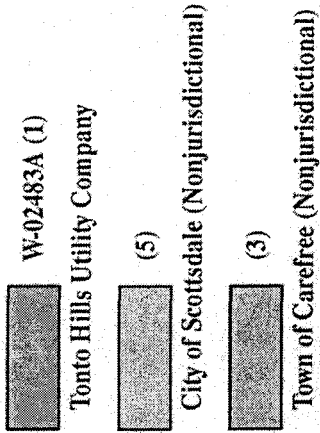
Attachment

cc: Mr. Charles Dunning
Mr. Charles Civer
Ms. Deb Person (Hand Carried)
Mr. Del Smith

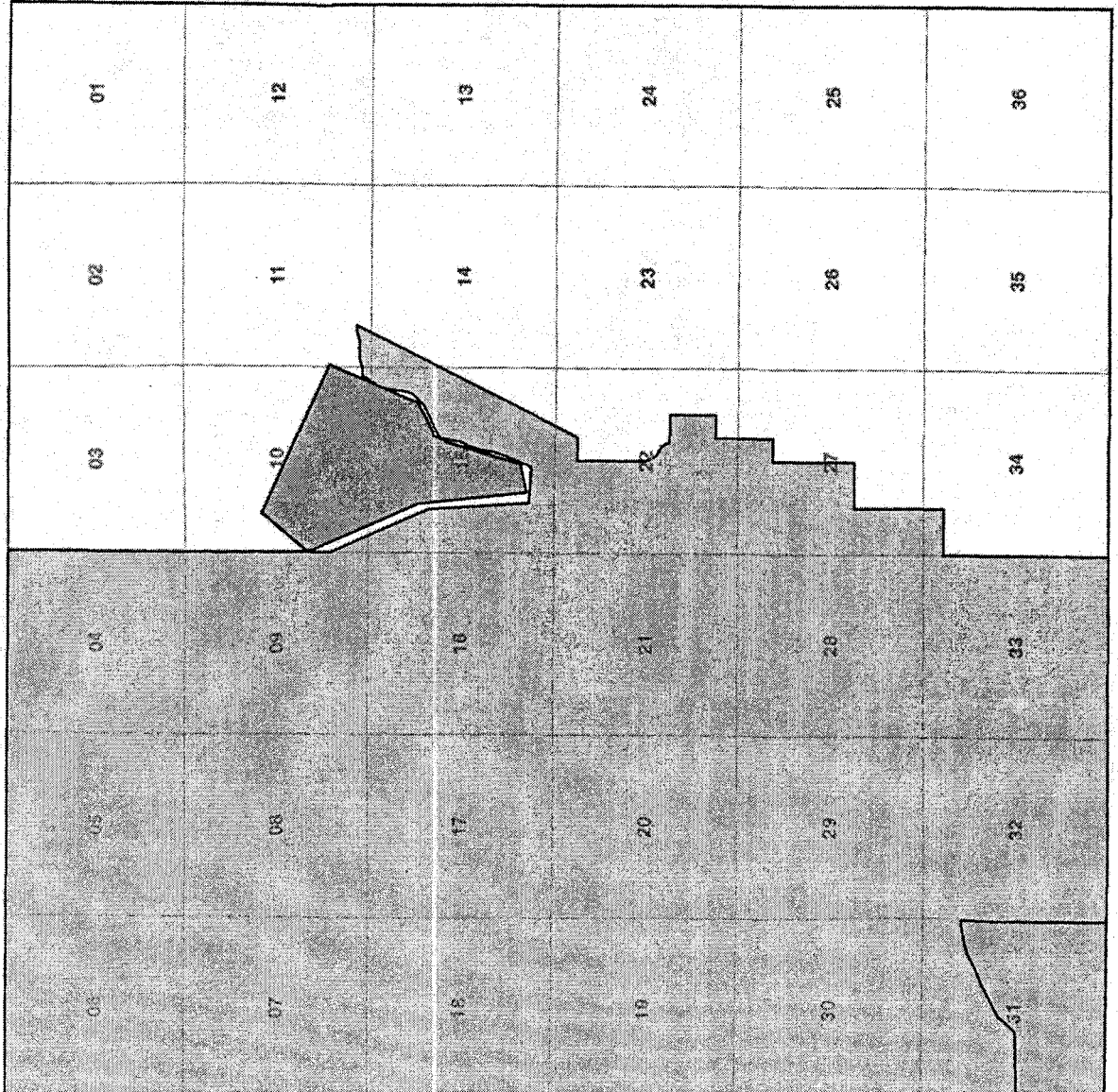
MARICOPA COUNTY

RANGE 5 East

TOWNSHIP 6 North



Tonto Hills Utility Company
Docket No. W-02483A-09-0064
Application to Cancel its CC&N and Sell its Assets to
Tonto Hills Domestic Water Improvement District



May 9, 2008

GOOD SIGNATURE FINAL COPY
OF AGREEMENT

Tonto Hills Utility Company
c/o Donald Unthank, President
11802 East Blue Wash
Cave Creek, AZ 85331

Dear Mr. Unthank:

This Letter of Intent (LOI) is an offer by a Tonto Hills, Arizona Domestic Water Improvement District to be formed (the "DWID" or "Buyer") to acquire all tangible and intangible assets, contractual, ownership and leasehold rights and interests held by Tonto Hills Utility Company ("THUC" or "Seller") held now and at the date of Closing except cash and marketable securities, if any (hereinafter, the "Assets"), and to assume the THUC liabilities specified in Section X below (the "Liabilities") but no other. Hereinafter the transaction is referred to as the "Acquisition." The offer is subject to the satisfactory completion of the matters described in Section Y below. The offer may be withdrawn by Buyer if an Adverse Event as defined in Section Z occurs. This offer may be accepted by your signature below and presentation to Buyer's Contact (defined below) of a THUC corporate resolution signed by a majority of the ownership interests in THUC authorizing the acquisition as described herein.

The Assets will be acquired for U.S. ~~XXXXXX~~ (the "Purchase Price") to be paid to THUC at the Closing of the Acquisition. The purchase price includes an estimate of \$200,000 to pay off the Water Infrastructure Finance Authority (WIFA) debt as of December 31, 2009. The Purchase Price will be adjusted to reflect the actual WIFA debt payoff at Closing.

Notices to the "Sellers" should be delivered in writing to Donald Unthank ("Seller's Contact") and notices to the acquiring DWID should be delivered in writing to Charlie Civer ("Buyer's Contact").

Section X – Liabilities to be Assumed

Refundable Meter Deposits

Section Y – Conditions to Closing

This offer is conditioned upon, and subject to satisfactory completion of, each of the following (to be completed in an expedient manner, but in no event later than December 31, 2009, unless extended in writing by the Sellers):

Obtaining signed approval of majority percentages (as determined by Maricopa County) of the Tonto Hills property owners of a petition to form the DWID and complete the Acquisition.

Obtaining the relevant Maricopa County approval to formation of the DWID.

Forming a DWID to include all Tonto Hills lots in accordance with Arizona and Maricopa County statutes to acquire the Assets as defined above and assume the Liabilities as defined above.

Arranging for the DWID to obtain sufficient financing to fund the Purchase Price, transaction Closing costs and other costs determined exclusively by the DWID.

Obtaining assignments for the benefit of the DWID of all existing rights and contracts pertaining to the Assets, including, but not limited to the following:

Central Arizona Project Water Service Subcontract and Water Allocation
City of Scottsdale Treatment and Transportation Contract
Quitclaim Deed with Desert Mountain Properties and related Water Line
Easement
U.S. Forest Service well lease

THUC obtains approval from the Arizona Corporation Commission for the sale of the Assets, as defined above, to Buyer and on Closing retires, or transfers, its Certificate of Convenience and Necessity to Buyer.

THUC sandblasts and applies a new epoxy coating to the tank after repairing the entire tank in the event there is structural damage. THUC provides piping for a temporary tank to be connected to the system. All of the foregoing is to be done in accordance with potable water industry standards and at THUC's cost. Reference: Section 5.8 of the Preliminary Engineering Report by Arizona Engineering Company (PER), dated April 3, 2008. Seller shall notify Buyer of commencement and work in progress. Buyer has the right to periodic inspections as Buyer deems necessary. Should Buyer and Seller not agree as to the application of "industry standards", an independent engineer shall be mutually selected who will make the final recommendation.

THUC replaces the sections of potable water pipe on Blue Wash Road and Tonto Road at the two intersections of Blue Wash Road with La Plata and Tonto Roads. This replacement shall complete the potable water pipe loops at these intersections. This work shall be complete, all at THUC's cost. Reference: Table 7.1 and page 9 of the PER, dated April 3, 2008, (connect 4" waterline loops in Blue Wash and Tonto Roads). All pipe used for this work shall be new C900 PVC rated to 200 psi.

THUC pays off its WIFA loan, and any other debt or liens secured by Assets, with the proceeds from the Acquisition immediately upon Closing.

Management of THUC operates THUC in a prudent manner consistent with the past three years of activities including acquiring sufficient CAP capacity to serve the THIA property owners, except that no Assets (other than cash) to be acquired may be distributed to THUC stockholders nor new THUC liabilities be incurred, and

management of THUC immediately notifies the Buyers' Contact in the event of any Adverse Event as described in Section Z. Until the closing THUC grants Buyer's Contact and/or his designee access to THUC books and records and permission to continue evaluating THUC operations upon reasonable notice.

Section Z – Adverse Events

The following events, should they occur prior to Closing, would constitute Adverse Events which could allow the Buyer, at its option, to withdraw the offer contained herein:

The loss or adverse modification of any rights pursuant to contracts listed in Section Y.

A THUC water distribution infrastructure problem reducing or eliminating delivery of water or degrading water quality to any THUC customers for more than 48 hours.

Notice by any governmental agency of a problem with THUC operations, water system or water quality.

Assertion of a claim, assessment or lawsuit against THUC or potentially impairing THUC assets.

Any filing or threat of filing litigation by anyone against Buyer for formation of the DWID and/or encumbering the Tonto Hills owners' properties through purchase of THUC assets or obtaining associated loans.

* * * * *

Seller agrees to neither solicit nor accept any transaction involving a sale of either a majority of the stock of THUC or any of its Assets as defined above from the date of this Agreement to Closing. Seller agrees to inform any prospective minority interest THUC stockholder of the existence of this letter of intent and require their written concurrence with its terms and conditions. Seller agrees to cooperate with Buyer to facilitate the completion of the Acquisition.

Should Buyer not be successful in obtaining sufficient percentage of petitioners to satisfy Maricopa County's approval to form the DWID Seller may, at its option, terminate this Agreement.

Seller will provide title insurance for all THUC real estate assets at Buyer's cost.

Seller will be responsible for its own local, State or Federal income or sales taxes incurred as a result of this Acquisition.

Property taxes and escrow costs will be shared by Seller and Buyer pro rata based on conventional Arizona practice.

Buyer and Seller will bear their own costs in connection with the Acquisition.

This letter is intended to be legal and binding on the relevant parties. The parties intend to document the Acquisition via a comprehensive Contract and bill of sale to be negotiated and drafted consistent with this letter in good faith by Seller and Buyer.

Tonto Hills Utility Company
May 9, 2008
Page 6

Please indicate your acceptance of these terms and conditions by signing and returning a duplicate of this letter.

Members of the Committee for DWID formation and utility negotiation on behalf of the DWID to be formed ("Buyer"):

[Signature] May 09, 08

Don P. [Signature] MAY 21, 08

Ralph E. Spurgin 5/27/08

ACCEPTED by Tonto Hills Utility Company ("Seller"):

[Signature]
Donald Upham, President

Date: 5-18-08

EXHIBIT 'B'

**ORDER ESTABLISHING
TONGO HILLS DOMESTIC WATER IMPROVEMENT DISTRICT
C-91-09-090-M-00**

A petition having been filed with the Clerk of the Board of Supervisors of Maricopa County, Arizona, on October 30, 2008, praying for the establishment of the Tonto Hills Domestic Water Improvement District, under the provisions of Title 48, Chapter 6, Article 1, Arizona Revised Statutes, 1956, and said petition having been presented to the Board of Supervisors on December 17, 2008, and the said Board of Supervisors having set the hearing on said petition on January 28, 2009, at the hour of 9:00 a.m., at the usual meeting place of said Board of Supervisors at 205 West Jefferson Street, in the City of Phoenix, as required by said Arizona Revised Statutes, 1956, and said Board having heard all interested property owners who appeared at said hearing on any matter relating to the establishment of the proposed District, or filed with the Clerk of the Board of Supervisors, before the date for said hearing, and after having heard all of said property owners, said Board of Supervisors finds that said petition is signed by the requisite number of owners of real property and further finds that the public convenience, necessity and welfare will be promoted by the establishment of said district, and hereby, by this formal order declares the findings aforesaid, and establishes the boundaries as follows:

A subdivision of Tract "A" of Exchange Survey No. 659, a survey of record in the United States General Land Office and located in the Tonto National Forest and being part of Sections 9, 10, and 15, Township Six North, Range Five East, G. & S. R. B. & M., Maricopa County, Arizona and recorded in Book 93, Map 5 of Maricopa County Records.

To include:

The establishment of the Tonto Hills Domestic Water Improvement District as authorized under A.R.S. 48-903 and then, establishes a separate Board of Directors of said Improvement District as authorized under A.R.S. 48-1012. Said board will be comprised of 5 members to serve said district pursuant to Arizona law and here are the following named qualified electors to serve as the first board of directors:

1. Charles Civer
2. William Victor
3. Don Rex
4. Robert Swan
5. Scott Smallish

That, immediately after the selection and qualification of the first directors of the board, the directors shall meet and divide themselves by lot into two classes as nearly equal in number as possible; directors of the first class shall serve for a term of four years, and directors of the second class shall serve for a term of two years. Every director shall continue to discharge the duties of office until a successor is appointed and qualifies.


EXHIBIT 'B'

Therefore, the petitioners pray, upon its organization, that the Board of Directors of said Improvement District authorize, direct and commence with proceedings that will facilitate the purchase, operation, and maintenance of the existing domestic water delivery system pursuant to Arizona law.

And further declares that said district is now established under the name of TONTO HILLS DOMESTIC WATER IMPROVEMENT DISTRICT, by which name it shall be known in all proceedings hereafter.

Upon motion made and unanimously carried the foregoing order is declared adopted this 28th day of January 2009.


Chairman, Board of Supervisors


Clerk

cc: DEL

with
Sept.

Tonto Hills Utility Company
11802 E. Blue Wash Road
Cave Creek, AZ 85331
480-488-0253

April 8, 2009

RECEIVED

APR 09 2009

ARIZONA CORP COMM
Director Utilities

Utilities Division,
Arizona Corporation Commission,
1200 W. Washington Street,
Phoenix, Arizona 85007
Attention: Vicki Wallace, Executive Consultant

Re: **Insufficiency Letter** dated March 19, 2009 in response to:
Tonto Hills Utility Company - Application for Approval of the Sale of Assets
and for Cancellation of the Certificate of Convenience and Necessity
("CC&N") Docket No. W-02483A-09-0064

Dear Ms. Wallace,

The referenced letter identifies further information needed from the Tonto Hills Utility Company ("THUC") to meet sufficiency standards for the application. In response please see below.

1. Provide a complete listing of the Company's assets that are to be sold to the Tonto Hills Domestic Water Improvement District ("District"). On the list provided please indicate those assets, if there are any, that would not be sold to the District.

Assets to be sold:

All above-ground plant; tanks and equipment
All distribution mains, laterals, service connections
All fire hydrants
Land parcels owned by THUC

: **The following contracts:**

Central Arizona Project Water Service Subcontract and Water Allocation
City of Scottsdale Treatment and Transportation Contract
U.S. Forest Service wellsite lease

Assets not to be sold:

Checking/saving/reserve accounts
Accounts receivable
Any undeposited funds
Office equipment

2. What is the total purchase price to be paid by the District and how was this price determined?

The price is \$442,000 plus the amount needed to retire THUC's WIFA debt at the time of closing (the debt is presently approximately \$202,000), as determined in negotiation between the homeowners' ad hoc DWID committee and THUC, assuring the buyer a prudent investment price, and the seller accepting a price judged to be consistent with THUC's estimate of market value.

3. What is the status of the Tonto Hills loan application to the Water Infrastructure Funding Authority ("WIFA")? Where is the Tonto Hills' loan application ranked on the WIFA 2009 Funding Cycle – Priority List for Drinking Water Revolving Fund?

The District is #5 on WIFA's priority list. The District Board has passed a resolution authorizing the application for an \$800,000 loan to be submitted to WIFA. This resolution was submitted to WIFA on March 26, 2009.

4. Describe the District's (or its members) prior experience at owning and operating a water company.

All of the District Board members have professional or business management experience. Two members have water company experience. District Board members summary resumes are attached as Exhibit "A".

The officers of THUC remain residents and property-owners of Tonto Hills. They will stand by for immediate advisory support to the District Board of Directors, if/as needed.

An employee and stockholder of THUC, who has been responsible for day-to-day operations of the water system, has been hired by the District as Superintendent of Operations.

In addition, the District has submitted requests for proposals for management services to three qualified certified operators. The selected management company will be employed prior to the District's commencement of operations of the water system.

The source of water (CAP allocation) and the treatment and transport of the water by City of Scottsdale mitigate the complexity of operating the water system by THUC and, therefore, the District.

5. Describe the organizational structure of the District and provide name and contact information for those individuals that will be primarily responsible for managing and operating the Company.

The District will be governed by an elected Board of Directors as authorized under ARS 48-1012/1014. The Board consists of five members ultimately elected by District property owners; the initial membership, as approved by the County Board of Supervisors, is the five following individuals; personal phone numbers are provided for contact.

Robert Swan	480-575-6728
Charles Civer	480-451-6961
William Victor	480-488-3656
Don Rex	480-488-0411
Scott Smallish	480-595-8632

See enclosure Exhibit "A" for resumes.

6. Provide the name and ADEQ certification number of the person who will be the certified operator of the water system upon completion of the sale

Refer to response in question # 4. The current certified operator is one of the proposed management companies.

7. Has Tonto Hills secured its Central Arizona Project allocation?

Yes. This allocation was secured in 2004. On March 25, 2009 the District made application to the CAP to transfer the entitlement to the District.

8. Describe the effect of the proposed transaction upon the service of the applicant and any benefits that will be realized by customers if the proposed sale is approved.

- The applicant, the Tonto Hills Utility Company, will dissolve as a corporation and cease all operations. Its officers will retain the THUC records and remain immediately available for advisory support to the District.
- The customers will benefit from the District by the ensured control of the 100-year CAP water allocation. The District Board, working on behalf of the Tonto Hills' property owners will be in the best position to assure that the water system, uniquely critical to the vitality of the community, is professionally maintained and operated, capable to deliver dependable long-term service.

9. Describe in what respect, if any, the proposed transaction will have on any other utility.

The City of Scottsdale treatment and transportation contract, for treatment and delivery to THUC of the CAP water allocation, is in process of renegotiation to transfer of the contract to the District.
No other utility is affected in any way.

10. Describe any change to the operation and maintenance of the system that will occur if the proposed sale is approved.

The District Board represents that there are no expected material changes to water rates, offsite hookup charges, water user terms and conditions, and operation and maintenance as practiced by THUC.

11. List and estimate the cost of any additional upgrades needed to the System (other than those improvements included as conditions to closing)

There are no upgrades needed for reasons of safety, cost avoidance, cost effectiveness, nor for avoidance of service interruptions. There may be further consideration by the District of installing pressure-control valves to prevent possible damage to low-level mains which could occur upon refilling an empty system. If allowed to recharge at full gravity rate severe kinetic pressures could exceed the pressure ratings of lines at the lowest terminus. (The problem has never occurred in the 40-year history of the system.)

12. How will the proposed sale facilitate completion of the upgrades listed in the Company's response to the previous question?

Refer to # 11 above.

13. Please provide a copy of Maricopa County's approval of the formation of Tonto Hills Domestic Water Improvement District.

Please see Enclosure Exhibit "B".

14. The Letter of Intent ("LOI") to buy the Company by the District lists several other conditions to closing. Indicate the current status of the conditions to closing in the LOI.

The several conditions have been/are-being met as follows:

- A majority of the property owners of Tonto Hills signed the petition to form the District and it was submitted to the County.

- Maricopa County has approved the formation of the District.
- The funding to cover the purchase price and costs to form the District has been applied for to WIFA.
- The relevant agencies have been requested to assign the following THUC contracts to the District:
 - CAP Water Service Subcontract and Water Allocation
 - City of Scottsdale Treatment and Transportation contract
 - U. S. Forest Service wellsite lease
- Approval by the Arizona Corporation Commission of the sale of THUC is in process.
- The water storage tank has been repaired and recoated to industry standards for potable water storage and returned to service.
- THUC has replaced the sections of potable water pipe on Blue Wash Road and Tonto Road at the two intersections of Blue Wash with La Plata and Tonto Roads in accordance with the required specifications.
- The agreement for sale to the District provides that THUC shall pay off the current WIFA loan in escrow out of the purchase funds.
- The management of THUC continues to operate in a prudent manner.
- There has been no sale of any asset identified for the sale, and no liabilities incurred.
- The Company recognizes its agreement to notify the District's agent of any adverse event occurring to the detriment of the system. There has been no such occasion.
- The Company has observed its agreement to allow the District's agent continued free access to all THUC books and records.

15. Is the District planning on charging the same rates that the Company is now charging?

There are no plans or prospects of changes of rates in the foreseeable future.

16. Will all Tonto Hills liabilities, including but not limited to, refund obligations associated with main extension agreements and deposits be assumed by the District?

There are no obligations associated with main extension agreements. Refundable water meter deposits will be assumed by the District..

17. Please identify any and all mechanics, tax or other liens that have been assessed against the Company or its owners/operators.

There are no liens of any kind levied on THUC, and none expected.

- 18 Please provide the Company's compliance status with the Arizona Department of Environmental Quality and Arizona Department of Water Resources.

Please see Enclosure Exhibit "C"..

Please contact us if you have further questions.

Sincerely,

TONTO HILLS UTILITY COMPANY

By: _____


Donald J. Unthank, President

EXHIBIT "A"

DWID Board Members

Bill Victor --

Tonto Hills resident 15 years.

30 years of professional consulting experience in hydrogeology, water resources and water supply systems.

Registered Professional Geologist in AZ, CA and Kentucky.

Managed projects involving installation of water supply wells, including pipeline and storage tank infrastructure.

Extensive experience collecting water samples and interpreting chemical lab results with respect to potential contaminants, drinking water standards and general water quality

Bill has broad knowledge of the ADWR and CAP systems of water rights, allocations and assured water supplies.

Charles Civer --

Resident of the Valley since 1973; Tonto Hills for 8 years.

Valley Developer for 35 years.

Current project -- 460 acre custom hillside lot subdivision at Lake Pleasant, including management and design of Lake Pleasant Water and Sewer Companies.

Other relevant experience: consultant to Arcadia Water as part of the downtown Scottsdale Waterfront project.

Prior experience includes CPA with a national firm and CFO of publicly traded company.

EXHIBIT "A"

Robert Swan –

Native Arizonan

Resident of Tonto Hills for 5 years

32 years of business financial and managerial experience, including
15 years with KPMG as an auditor and financial advisor, the last 5 as a Partner
10 years as CFO of publicly-held and private firms

Treasurer, Board Member and former Secretary of Carefree Kiwanis Club
(7th largest Kiwanis Club in the world)

Former Chairman and President of two charitable organizations in California

CPA licensed in California

MBA in Finance and Accounting

Don Rex –

40 + years professional/technical experience including:
Design Engineering, Aerospace Systems Engineering, Program/Project Mgt.,
Contract Management and negotiations.

Currently, Technical Director for several Command and Control devices for the
cockpit of the new NASA Spacecraft, the Crew Exploration Vehicle, which will
replace current Space Shuttle.

Arizona resident 31+ years; Tonto Hills 18+ years.

Scott Smallish –

Resident of the Valley for 12years; of Tonto Hills for 11years.

Project construction manager for large custom home builder in Desert Mountain
and north Scottsdale for 12years.

EXHIBIT 'B'

ORDER ESTABLISHING TONTA HILLS DOMESTIC WATER IMPROVEMENT DISTRICT C-91-09-090-M-00

A petition having been filed with the Clerk of the Board of Supervisors of Maricopa County, Arizona, on October 30, 2008, praying for the establishment of the Tonto Hills Domestic Water Improvement District, under the provisions of Title 48, Chapter 6, Article 1, Arizona Revised Statutes, 1956, and said petition having been presented to the Board of Supervisors on December 17, 2008, and the said Board of Supervisors having set the hearing on said petition on January 28, 2009, at the hour of 9:00 a.m., at the usual meeting place of said Board of Supervisors at 205 West Jefferson Street, in the City of Phoenix, as required by said Arizona Revised Statutes, 1956, and said Board having heard all interested property owners who appeared at said hearing on any matter relating to the establishment of the proposed District, or filed with the Clerk of the Board of Supervisors, before the date for said hearing, and after having heard all of said property owners, said Board of Supervisors finds that said petition is signed by the requisite number of owners of real property and further finds that the public convenience, necessity and welfare will be promoted by the establishment of said district, and hereby, by this formal order declares the findings aforesaid, and establishes the boundaries as follows:

A subdivision of Tract "A" of Exchange Survey No. 659, a survey of record in the United States General Land Office and located in the Tonto National Forest and being part of Sections 9, 10, and 15, Township Six North, Range Five East, G. & S. R. B. & M., Maricopa County, Arizona and recorded in Book 93, Map 5 of Maricopa County Records.

To include:

The establishment of the Tonto Hills Domestic Water Improvement District as authorized under A.R.S. 48-903 and then, establishes a separate Board of Directors of said Improvement District as authorized under A.R.S. 48-1012. Said board will be comprised of 5 members to serve said district pursuant to Arizona law and here are the following named qualified electors to serve as the first board of directors:

1. Charles Civer
2. William Victor
3. Don Rex
4. Robert Swan
5. Scott Smallish


That, immediately after the selection and qualification of the first directors of the board, the directors shall meet and divide themselves by lot into two classes as nearly equal in number as possible; directors of the first class shall serve for a term of four years, and directors of the second class shall serve for a term of two years. Every director shall continue to discharge the duties of office until a successor is appointed and qualifies.

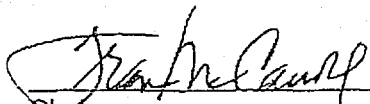
EXHIBIT 'B'

Therefore, the petitioners pray, upon its organization, that the Board of Directors of said Improvement District authorize, direct and commence with proceedings that will facilitate the purchase, operation, and maintenance of the existing domestic water delivery system pursuant to Arizona law.

And further declares that said district is now established under the name of TONTO HILLS DOMESTIC WATER IMPROVEMENT DISTRICT, by which name it shall be known in all proceedings hereafter.

Upon motion made and unanimously carried the foregoing order is declared adopted this 28th day of January 2009.


Chairman, Board of Supervisors


Clerk



Maricopa County
Environmental Services Department

PUBLIC WATER SYSTEM COMPLIANCE STATUS REPORT

System Name: Tonto Hills Water Co.

PWS ID#: 07-076

Type of System: Community Number of POE's: consecutive to 07-098 Surface Water: no
Number of Service Connections: 128 Population Served: 265

Assigned Monitoring Dates - Initial: 1/1/95 Phase II: 1/1/95 Phase V: 1/1/98

Does the water system have a Certified Operator? Robert Hanus

Does the system have major treatment plant deficiencies? no
Please describe: _____

Date of last inspection: 12/15/04

Does the system have major O & M deficiencies? no
Please describe: _____

Does the system have water quality monitoring/reporting deficiencies? minor
Please describe: Due to a TTHM sample above the MCL in September 2006, the system is required to monitor for TTHM quarterly. The system did not submit a 1st quarter 2008 sample. The system also did not report 3rd quarter 2008 residuals. Public notice is required for missed monitoring

General Public Water System Compliance Status? Substantial Compliance

Date of compliance review: November 12, 2008 By: Laura Moorhead Initials: LM
Phone: (602) 506-6631

Requested By: Don Unthank Fax Number/ Contact: _____ Tracking Number: _____
Supervisor Initials: DU Date: _____

Drinking Water Program
Michael Mallette, Manager
1001 N. Central Ave., Suite 250 Phoenix, Arizona 85004-1940 Phone: (602) 506-6666 Fax: (602) 372-0866

MEMORANDUM

DATE: June 19, 2009

TO: Vicki Wallace
Chief, Consumer Services and Special Projects

FROM: Del Smith
DS Engineering Supervisor

RE: IN THE MATTER OF THE APPLICATION OF TONTO HILLS UTILITY
COMPANY FOR APPROVAL OF THE SALE OF ASSETS TO TONTO
HILLS DOMESTIC WATER IMPROVEMENT DISTRICT AND FOR
CANCELLATION OF THE CERTIFICATE OF CONVENIENCE AND
NECESSITY
(DOCKET NOS. W-02483A-09-0064 & W-20653A-09-0064¹)

Introduction

Tonto Hills Utility Company ("Company" or "Applicant") has applied to the Arizona Corporation Commission ("Commission") for Approval of the Sale of Assets to Tonto Hills Domestic Water Improvement District ("District") and for Cancellation of the Certificate of Convenience and Necessity ("CC&N"). The Company has entered into an agreement to sell and transfer its assets to the District. Recently, the residents and customers within the Company's service area petitioned Maricopa County to form the District. The Maricopa County Board of Supervisors granted the petition and established the District.² Applicant requests that the Commission approve the transfer of the Company's utility assets to the District. The District will continue to provide service to all Company customers.

The Company provided water utility service to 127 customers during the peak summer season of May, June, July, and August in 2008.³ The Company serves the Community of Tonto Hills which is located in the vicinity of Cave Creek Road and Old Mine Road approximately six miles east of the Town of Cave Creek in Maricopa County. The Company's CC&N covers an area consisting of 465 acres or roughly three-quarters of a square mile.

¹ Docket Control assigned Docket No. W-20653A-09-0064 to Tonto Hills Domestic Water Improvement District.

² The Order establishing the District was adopted January 28, 2009.

³ Per Company Annual Report filed with Commission for year ending 12/31/2008. During the month of August in 2008 the Company sold 1,112,623 gallons of water.

Company Water System

Central Arizona Project ("CAP") water is the Company's sole source of water. The CAP water is treated and transported to the Company's water system by the City of Scottsdale ("City"). The Company's water system consists of a 64,000-gallon storage tank, a gravity fed distribution system, meters and service lines.⁴ The average annual growth rate for the previous five-year period has been very modest, with an average of about two new connections added per year.⁵ The maximum number of customers served peaked at 130 in 2005 and 2006. Staff concludes that this system has adequate production and storage capacity.

The Proposed Transfer

According to the Applicant, the existing officers of the Company wish to retire for reasons of age and it would be in the best interest of the community to own and operate its water system to ensure proper operation and maintenance of the system at the lowest possible rates. The proposed sale will enable the District to benefit from opportunities to receive grants, subsidized loans, tax benefits, and lower costs for professional services.⁶ System improvement projects will need to be undertaken in the future. Recent water pumped and water sold data indicates an excessive amount of non-account water (exceeding 12 percent) which is typically due to system leaks caused by old infrastructure that is in need of repair or replacement. The District filed a Project Financial Assistance application with the Water Infrastructure Finance Authority of Arizona ("WIFA"). In its WIFA application the District indicated that the funding, in part, was needed for storage tank repairs and to correct water loss issues.

Staff understands that the proposed transfer will not have an adverse effect on service quality or operation of the Company. The District has submitted requests for proposals to qualified certified operators. The selected management company will be employed prior to the District's taking over operation of the water system. All of the District Board members have professional or business management experience. Two members have water company experience. Finally, according to the Applicant, the complexity of operating the water system is lessened because the Company uses only CAP water which is treated and transported by the City.⁷ The Applicant believes that the transfer to the District will help to ensure continued control of the Company's CAP water allocation. Maricopa County Environmental Services Department ("MCESD") Compliance

MCESD regulates the water system under Arizona Department of Environmental Quality Public Water System Identification No. 07-076. The MCESD has determined that this

⁴ Per 2008 Annual Report data.

⁵ Historical growth rate based on the maximum number of customers served during the years 2004 thru 2008 per Commission annual report data.

⁶ These benefits have been recognized in similar proceedings before the Commission.

⁷ See Company responses, dated April 8, 2009, to Staff's March 19, 2009, Insufficiency Letter.

Maricopa County Environmental Services Department ("MCESD") Compliance

MCESD regulates the water system under Arizona Department of Environmental Quality Public Water System Identification No. 07-076. The MCESD has determined that this system is in substantial compliance with its requirements and is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.⁸

Arizona Department of Water Resources ("ADWR") Compliance

Tonto Hills Utility Company is within ADWR's Phoenix Active Management Area, and consequently is subject to reporting and conservation rules. ADWR reported that the Company is currently in compliance with departmental requirements governing water providers and/or community water systems.⁹

Commission Compliance

A check with the Utilities Division Compliance Section showed no delinquent compliance items.¹⁰

Summary

Conclusions

1. Staff concludes that this system has adequate production and storage capacity.
2. Staff concludes that the proposed transfer will not have an adverse effect on service quality or operation of the Company.
3. The MCESD has determined that this system is in substantial compliance with its requirements and is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.
4. ADWR reported that the Company is currently in compliance with departmental requirements governing water providers and/or community water systems.
5. A check with the Utilities Division Compliance Section showed no delinquent compliance items.

⁸ Compliance status as of January 5, 2009.

⁹ Compliance status as of February 25, 2009.

¹⁰ Compliance status as of March 19, 2009.

ORIGINAL

W-02483A-09-0004
W-20653A-09-0004

PUBLIC NOTICE OF AN APPLICATION FOR THE SALE OF ASSETS AND THE
CANCELLATION OF THE CERTIFICATE OF CONVENIENCE AND
NECESSITY BY

TONTO HILLS UTILITY COMPANY

The Tonto Hills Utility Company has applied to the Arizona Corporation Commission for authority to sell its assets and cancel its Certificate of Convenience and Necessity for domestic water service. The proposed sale will be to a Domestic Water Improvement District (DWID) to be formed by the property owners of Tonto Hills. If the application is granted and the sale consummated, the Tonto Hills DWID would be the exclusive provider of domestic water service to Tonto Hills which will establish its own rates and charges.

Any outstanding claims against the Tonto Hills Utility Company should be presented to the Tonto Hills Utility Company within twenty days of the date of publication of this notice, addressed to Tonto Hills Utility Company, 11802 East Blue Wash Road, Cave Creek, Arizona 85331.

Questions about this application or its approval may be addressed to the Consumer Services Section, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, Arizona 85007, or called to 602-542-4251/1-800-222-7000.

SENT TO CUSTOMERS
ENCLOSED WITH WATER BILLS
RECD w/WATER BILLS ON
3-6-09 DJS.

Arizona Corporation Commission

DOCKETED

APR - 6 2009

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PUBLIC NOTICE

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Published in Sonoran News March 18, 2009, Published in Gila Bend Sun March 19, 2009

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